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Chairman: Mr. Kuchinsky ..... (Ukraine)
later: Ms. Groux (Vice-Chairman) ..... (Switzerland)

Contents

Agenda item 103: Elimination of racism and racial discrimination (*continued*)

(a) Elimination of racism and racial discrimination (*continued*)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*)

Agenda item 104: Right of peoples to self-determination (*continued*)

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The meeting was called to order at 9.40 a.m.

Agenda item 103: Elimination of racism and racial discrimination (*continued*)

(a) Elimination of racism and racial discrimination (*continued*) (A/59/18, A/59/275, A/59/276, A/59/329, A/59/330, A/59/425 and A/C.3/59/4)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*) (A/59/375 and A/C.3/59/4)

Agenda item 104: Right of peoples to self-determination (*continued*) (A/59/66-S/2004/219, A/59/191, A/59/376, A/59/425 and A/59/427-S/2004/806)

1. **Mr. Kulyk** (Ukraine), speaking on agenda item 103, said that his country was firmly convinced that that the international community must face the twofold challenge of eliminating racism and elaborating the best methods and practices to prevent its resurgence. Ukraine, as home to more than 130 ethnic minorities comprising more than 20 per cent of its population, was well placed to understand the complexity of the task. It accorded a high level of priority to the objective of a multicultural, pluralistic society living in peace and harmony.

2. His delegation fully supported the recommendation contained in the report of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/59/330) that States must exercise greater control over racist and xenophobic statements and ensure that such activities were stopped (para. 57). Ukraine's Constitution, Criminal Code and Law on National Minorities had established the principles of equality and non-discrimination and created a solid basis for taking legal action against persons and organizations that fomented inter-ethnic and religious hatred.

3. Referring to the measures taken by the Ukrainian authorities to respond to manifestations of racism and to create a culture of tolerance and dialogue, as a bulwark against outbreaks of racially motivated violence, he said that a new version of the 1992 Law on National Minorities — already considered by experts as one of the most progressive of its kind — had been elaborated so as to strengthen the protecti of the rights of persons belonging to minorities and, particular, to incorporate a legal definition of a natio (ethnic) minority. In the interest of promoti constructive dialogue among organizations of eth minorities and different religious confessions, t Ukrainian authorities had created the Council Representatives for Public Associations of Natio Minorities, to advise the President, and the A Ukrainian Union of Churches and Religio Organizations. Additional measures had been taken behalf of ethnic minorities, especially in the area education. Thus, there were 21,000 schools in wh education was being provided in Russian, Romani Polish, Hungarian and other non-Ukrainian language

4. Based on its positive experience, Ukra suggested that Member States should pay m attention to the regular collection and dissemination best practices and lessons learned in the fight agai racism, for example by holding regular seminars a conferences on the issue or by establishing traini programmes for law-enforcement and judic personnel. The fight against racism and other forms discrimination was inseparable from the promotion a implementation of the fundamental values of toleran non-discrimination and respect for diversity. He dr attention to the initiative put forward by his delegati to the United Nations Educational, Scientific a Cultural Organization (UNESCO), to declare t period 2006-2015 the International Decade for t Promotion of Tolerance, in relation to which UNES had recently adopted the relevant decision.

5. **Mr. Alaei** (Islamic Republic of Iran), speaking agenda item 104, said that the right of peoples to se determination was fundamental to the realization of other rights. The universal realization of that right w an essential condition for the effective guarantee a observance of human rights and for the preservati and promotion of such rights, as provided for General Assembly resolution 58/161, paragraph 1.

6. Recalling that various resolutions of the Gene Assembly and the Commission on Human Rights h reaffirmed the rights of the Palestinian people to se determination, he said that his delegation found regrettable that Israel, the occupying Power, contin to defy those rights, in particular through the killing innocent civilians, arbitrary detentions, collect punishments and other restrictions imposed upon Palestinian people. Israel had also persisted in

construction of a separation wall in defiance of appeals by the international community and the advisory opinion of the International Court of Justice. Under the terms of that decision, the construction of the wall by Israel in the Occupied Palestinian Territory was contrary to international law and Israel was under an obligation to make reparation for all damage caused by the construction of the wall in the Occupied Palestinian Territory and to respect the right of the Palestinian people to self-determination, as well as its obligations under international humanitarian law. The denial of the right of peoples to self-determination constituted a grave denial of fundamental human rights, and non-cooperation by occupying Powers made it imperative to adopt concrete measures.

7. **Mr. Osmane** (Algeria), speaking on agenda item 103, said that it was deplorable that distinctions of race, colour, religion, culture or ethnic or national origin had given rise to attitudes of rejection and intolerance with regard to migrants, refugees, asylum-seekers, minorities or indigenous peoples, and most often in countries where, paradoxically, democratic values and human rights were well established. Such a narrow view of human relations was born out of racist ideologies, chauvinism, cultural prejudices, intolerance and ignorance, all of which were exploited for electoral purposes and most often disseminated by the media or through the new information technologies.

8. His delegation believed that that situation was a call not only to Governments, which must accord absolute priority to the adoption of legislative and administrative measures (sanctions against those who promoted or carried out racist acts) as well as preventive measures (through education and information), but also to the international community, which must steadfastly reaffirm its commitment to the comprehensive implementation of the Durban Declaration and Programme of Action.

9. Algeria was disturbed by the lack of commitment on the part of donors with regard to the anti-discrimination unit of the Office of the United Nations High Commissioner for Human Rights, and also noted with concern that some Member States had lost interest in the work of the two working groups devoted, respectively, to the effective implementation of the Durban Declaration and Programme of Action and people of African descent. Such an attitude did nothing to advance the cause of combating racial discrimination.

10. In addition, the International Convention on the Elimination of All Forms of Racial Discrimination must be adapted to the new forms of racism and intolerance which, given their cross-border nature, required the codification of new standards. Lastly, he welcomed the report of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/59/330) and recalled that preservation of what had been achieved at Durban was a shared responsibility. To implement the texts that had been adopted at the Durban Conference was to rise up against the climate brought on by 11 September 2001 and to contradict the prophets of doom who preached the clash of civilizations.

11. **Ms. Mtshali** (South Africa), speaking on agenda item 103 on behalf of the member States of the Southern African Development Community (SADC) and associating herself with the statement made by the representative of Qatar in his capacity as Chairman of the Group of 77 and China, said that the elimination of racism, racial discrimination, xenophobia and related intolerance remained one of the greatest challenges of modern times. The Durban Declaration and Programme of Action constituted a global compact that imposed upon the international community as a whole the collective responsibility of bringing to a close that terrible chapter in human history. SADC commended the mechanisms that had been established pursuant to the Declaration and Programme of Action (the Intergovernmental Working Group established to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action, the Working Group of Experts on People of African Descent and the Group of Independent Eminent Experts). It attached particular importance to strengthening the effectiveness of those mechanisms. SADC was convinced that the international community's commitment to combat the scourge of racism could only be effective if it was backed up by the adoption of practical measures at the individual country level. It was a contradiction in terms for States to proclaim in international forums their commitment to wage that struggle, while at the same time having no national mechanism for the purpose.

12. The Committee's work would have been better served if its programme of work had not overlapped to such an extent with the schedule of the meetings of the Commission on Human Rights (in Geneva) devoted to

the follow-up to the Durban Conference and the implementation of the texts adopted there.

13. SADC welcomed the quality of the interactive dialogue between the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action and all the relevant experts on the important issue of complementary standards to the International Convention on the Elimination of All Forms of Racial Discrimination. It hoped that the elaboration of an additional protocol would be supported by all.

14. SADC was concerned that the goal of universal ratification of the Convention by 2005 was not likely to be achieved, and therefore urged all States that had not yet done so to ratify that instrument. It also strongly urged all States to withdraw their reservations to the Convention and to make the declaration under article 14.

15. She stressed that the issues that had come under scrutiny at the third session of the Intergovernmental Working Group on the effective implementation of the Durban Declaration and Programme of Action (racism and health, racism and the Internet, complementary standards) advanced the agenda of the Durban Declaration and Programme of Action. In addition, while SADC welcomed the active participation of regional groups at the meetings held in Geneva, it remained concerned by attempts in some quarters to undermine the Declaration and Programme of Action. As the Committee on the Elimination of All Forms of Racial Discrimination had asserted, it was that lack of political will to ratify and implement the human rights instruments that was frustrating the efforts to combat racism, racial discrimination, xenophobia and related intolerance.

16. SADC welcomed the Secretary-General's two reports (A/59/329 and A/59/330) and noted with concern the persistent rise in the number of racially motivated incidents and acts throughout the world, as well as the Special Rapporteur's proposal to promote political vigilance with regard to parties and organizations on the extreme right. With regard to the recommendations set out in the report in document A/59/329, SADC hoped that other Member States would share their views on the subject. It welcomed the announcement made by the United Nations High Commissioner for Human Rights that the struggle against racism, racial discrimination and xenophobia would henceforth be treated as a priority common to all activities of her Office. The role envisaged for international and regional organizations was encouraging, when one considered the important contribution that such organizations had made to the eradication of racism. SADC shared the High Commissioner's opinion that the problem was not one to be solved in the short term but rather in the long run, that it required the changing of hearts and minds through education and persuasion.

17. **Mr. Osmane** (Algeria), speaking on agenda item 104, said that the right to self-determination, set out in the Charter and repeatedly affirmed, notably in General Assembly resolution 1514 (XV), was the prerequisite to the enjoyment of all other human rights.

18. The Organization's universality was grounded in the sacrifice of peoples which had, in a vast, irreversible movement of emancipation, thrown off the yoke of colonialism in order to reconquer their freedom, recover their dignity and once again take their places in the international community. Yet that work of decolonization had not yet reached completion, because still other peoples were calling upon the international community to help them exercise their inalienable right to self-determination. There was the case of the Palestinian people, who continued to proclaim their right to choose their destiny freely and establish their State with Al-Quds as capital. There were also the people of Western Sahara who for more than a quarter of a century had been demanding their right to self-determination. In that connection, Algeria, having made it a basic principle of its foreign policy to support them, would continue to uphold the principle that the Saharan people should exercise their right to self-determination in a free, impartial referendum, in implementation of the Peace plan to which the Security Council had given its unanimous support in resolution 1495 (2003).

19. **Ms. Pérez** (Cuba), speaking on agenda item 104, said that violations of the right to self-determination took the guise not only of foreign colonial occupation but also of policies that would impose domination and control on developing countries, or of theories professing a right to humanitarian intervention.

20. There could be no question of respect for human rights so long as foreign occupation and domination persisted. That was why Cuba was demanding the immediate withdrawal of Israeli forces from all

occupied Arab territories, including Palestine and the Syrian Golan, and why it supported the right of the Puerto Rican people to self-determination.

21. Mercenary activities were on the rise and were appearing under new and dangerous forms that threatened human rights and the effective exercise of the right to self-determination. Cuba was favourable to the proposals made earlier by the Special Rapporteur of the Commission on Human Rights on use of mercenaries as a means of impeding the exercise of the right of peoples to self determination, in which he classified mercenary activities as crimes, and it hailed the Special Rapporteur's work in respect of the mercenary activities and terrorist acts committed against Cuba since 1997, as he himself had been able to ascertain during his visit to the country in 1999. Her delegation agreed with the Special Rapporteur that there was a link between mercenary activities and terrorism.

22. Her delegation condemned the amnesty granted by the President of Panama, with the approval of anti-Cuban terrorist circles living in the United States and of the United States Government, to four mercenaries and terrorists caught in the act in Panama in 2000, as they plotted an attempted assassination of the Cuban President at the Ibero-American Summit. She listed the offences committed by those persons, three of whom had been given sanctuary by the United States and one of whom was hiding in Central America, constituting a threat to world peace and security.

23. Her delegation wished to reaffirm the determination of the Cuban nation to defend its right to self-determination, in the face of United States attempts to undermine that right through military invasion, threats of nuclear aggression, terrorism and biological warfare, numerous attempts to assassinate the country's chief leaders, a continuing illegal occupation of a part of Cuba's territory on which the Guantánamo naval base was situated, and the impact of a murderous embargo. The Cuban people were facing the possible threat of a new United States military aggression aimed at destroying the social and political system that they themselves, exercising their right to self-determination, had freely chosen.

24. **Mr. Gzlal** (Libyan Arab Jamahiriya), endorsing the statement made by Qatar on behalf of the Group of 77 and China, observed that the last decade of the twentieth century had been distinguished by the end of apartheid in South Africa and a respect for cultural and religious plurality, but also by acts of genocide and ethnic cleansing that were without precedent. The problems still persisted at the beginning of the new millennium, a time when the Palestinian people were prey to the most vile racist crimes perpetrated by the occupying forces.

25. As indicated in the report of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/59/329), despite the efforts made by the international community after the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban in 2001, there had been an upsurge in acts of racism and xenophobia owing to globalization, intellectual polarization, diseases like HIV/AIDS, tuberculosis and malaria, illiteracy, marginalization and poverty. It should be emphasized that there was a distinction between traditional racism, based on colour, and racial discrimination affecting immigrants and refugees primarily, and the Special Rapporteur's recommendations for putting an end to all forms of racism were welcome.

26. Referring to a number of national instruments guaranteeing non-discrimination and respect for diversity, he said that in his country the law, inspired by the Koran and the Shariah, gave great importance to human rights and to equality and social justice for all, without distinction as to race, sex, language or religion. The international community had an obligation to do more to promote tolerance. With regard to the right of nations to control their own affairs enunciated in Article 2 of the Charter of the United Nations and reaffirmed in many United Nations resolutions and in international instruments, all Member States were bound to guarantee the effective exercise of the right to self-determination. Many nations had achieved independence and had joined the ranks of the Member States of the Organization. His delegation urged Member States not to abandon the endeavour to help peoples still living under foreign occupation, like the Palestinians, to achieve independence.

27. Condemning mercenarism, particularly in Africa, his delegation called upon the international community to make every effort to put an end to the problem and urged all States to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries.

28. **Mr. Najib** (Iraq), speaking on agenda item 104, said that the historic phase his country had been traversing since the fall of the previous regime, while it was waiting to regain its sovereignty, had been marked by important changes, among them the enactment of the Transitional Administrative Law, which offered new prospects for constitutional and legal political action during the transition period; that period had begun with the Coalition Provisional Authority and had concluded with the preparation for elections to the Iraqi National Assembly, which would be truly representative of the political trends in Iraq and would constitute the first legislative body freely elected by its citizens. Among the positive new developments in Iraq should be mentioned the establishment of freedom of the press and freedom of expression and the wide range of political issues being debated, including the issue of federalism, which was the outcome of an in-depth political vision of the situation in Iraq and was in accord with the right of peoples to self-determination.

29. His delegation hailed the contribution the United Nations had made by sending to Iraq the Special Envoy of the Secretary-General, whose mission had forged close contacts that had helped to set up the Iraqi Interim Government and to overcome the problems created by the domestic situation. The United Nations had also provided support to the efforts being made to combat terrorism and prevent any infringement of Iraq's sovereignty, and had done so despite the complications of the current international situation. In that connection, his delegation wished to reaffirm his people's right to self-determination as guaranteed in Security Council resolution 1546 (2004).

30. In the matter of human rights, his Government had chosen the right path, having created a Ministry of Human Rights, set up offices in some Iraqi prisons in order to detect any violations there, and permitted the establishment in Iraq of dozens of non-governmental organizations that enjoyed full freedom of action. The election of representatives to the National Assembly would pave the way for the establishment of a constitutional council responsible for drafting a constitution that would be submitted to the public in a referendum. Furthermore, power would be transferred peacefully to an elected Government that would reflect the new path chosen by Iraq, reaffirm the principles of the right to freedom of opinion and respect for the freedom of opinion of others, and lay the groundwork for a free, democratic, constitutional, federal and united Iraq. Despite the exceptional circumstances under which it was currently living, Iraq was in the process of regaining, slowly but surely, the place it had formerly occupied among civilized nations. The international community and the United Nations should therefore help it to re-establish its civic institutions and put a stop to the terrorist operations that had killed hundreds of Iraqi civilians and targeted their vital interests. His delegation invited donor countries who had promised to take part in the reconstruction of Iraq to maintain their pledges, pointing out that if his country was so attached to the principle of the right to self-determination — a principle it would never forswear, regardless of the circumstances — it was because it had absolute faith in democracy and freedom and because the Iraqis had already chosen the direction they would take.

31. **Ms. Rasheed** (Observer for Palestine), speaking on agenda item 103, urged the international community to ensure that the laws and institutions of all States addressed the root causes and consequences of discrimination and also secured remedies for those who suffered violations of their right to equality and justice.

32. For over 37 years, the Palestinian people had been victims of the most intricate expression of colonialism, racism and racial discrimination. The passage of time had not mitigated the suffering and misery of the Palestinians; instead, their already precarious living conditions had further deteriorated as a result of Israel's illegal policies and practices.

33. The systematic measures of oppression taken against the Palestinians could not have continued without the institutionalized racist mentality of the occupying Power. Over the past four years, those measures had taken the form of war crimes, State terrorism and systematic human rights violations *against the Palestinian people*. As a result, over 3,340 Palestinians had been killed and over 50,000 injured, many of whom would suffer permanent disabilities for the rest of their lives. The collective punishments imposed (curfews, closures and restrictions on movement) clearly reflected the racist policies practised by Israel.

34. The occupation had been transformed into a colonial phenomenon with the transfer of over 400,000 Israeli settlers to lands forcibly confiscated from the Palestinian people and the construction of bypass roads which created a "road apartheid" that even South

Africa had never known. Referring to the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 (A/59/256) and the advisory opinion of the International Court of Justice of 9 July 2004, she said that the construction of the Wall should be seen in the context of the illegal settlement campaign being pursued by Israel, contrary to international law. Settler colonialism was rooted in racism and racial discrimination, negating as it did the most basic rights of the indigenous population.

35. Israel had prevented the return of over 4 million Palestinian refugees uprooted from their homes and land in 1948, in defiance of international law and United Nations resolutions. Those refugees continued to be deprived of their civil, political and national rights on solely religious grounds. Hundreds of thousands of refugees were unable to obtain passports, as a result of which they were forced to live in extremely difficult conditions, whereas the occupying Power automatically granted citizenship to Jewish people from all over the world for settlement on land confiscated from the Palestinians.

36. As for the situation in Israel itself, over 1 million Israelis of Palestinian origin continued to suffer xenophobia, racial discrimination, racial violence and hate speech. They could not achieve equality and collective rights in a State which defined itself as the State of the Jewish people and which subjected their Palestinian sisters and brothers living in the Occupied Palestinian Territory to a cruel and dehumanizing form of military occupation. Israel had no constitution and was the only country in the world to differentiate between citizenship and nationality, which served to further the institutionalized discrimination against Palestinians living in Israel as second-class citizens.

37. In all spheres of public life, racism was becoming more explicit, blatant and vehement. Overtly racist and insulting remarks continued to be made by high-ranking officials of the State, army generals and even religious leaders. The "transfer" of the Palestinian people to which some Israeli officials had referred was simply a euphemism for ethnic cleansing.

38. She appealed to the international community to exert every effort to relieve the Palestinian people living in the Occupied Palestinian Territory, including East Jerusalem, of the hardships and anguish which they faced owing to the racism and racial discrimination of the occupying Power. Steps must be taken to end the occupation and the colonization of Palestinian land. The rights of Palestinian refugees must be restored and Israelis of Palestinian origin must enjoy the same rights as the rest of the population. The establishment of a Palestinian State, with East Jerusalem as its capital, should allow all Palestinians everywhere to live in a world free of racism and racial discrimination where their human dignity would be honoured and their rights and fundamental freedoms respected.

39. *Ms. Groux (Switzerland), Vice-Chairperson, took the Chair.*

40. **Mr. Najib** (Iraq), speaking on agenda item 103, said that the international community should assume its collective humanitarian responsibility by working effectively, through peaceful means, to eliminate racism, racial discrimination, xenophobia and related intolerance. The international community had already adopted a body of international instruments and declarations, most recently the Durban Declaration. He also drew attention to the International Covenant on Civil and Political Rights, in particular article 2, article 18 on freedom of religion, article 21 on the right of peaceful assembly and article 22 on freedom of association. The Interim Government of the new Iraq had laid the foundations for determined action against racial discrimination, in accordance with firmly established constitutional principles based on respect for the legitimate rights of all minorities in the context of Iraq's territorial unity and sovereignty.

41. Iraq's Interim Administrative Law guaranteed the equal treatment of minorities and prohibited all forms of discrimination against citizens of all ethnic and religious groups. Article 7 (b) of the Law provided that Iraq was a multi-ethnic country and that the Arab section of the population formed an integral part of the Arab nation as a whole. Moreover, article 12 of the same Law laid down equal rights for all Iraqi citizens, without distinction as to sex, opinion, ethnicity, religion, creed or birth, and declared that all citizens were equal before the law. For the first time after decades of arbitrary rule, tyranny and violation of the rights of its citizens, Iraq was in the process of strengthening those rights which, like the right of full participation in civil and political life, were guaranteed to all without distinction. It was also rebuilding its national constitutional authorities and institutions with a view to firmly entrenching the principles of

democracy and respect for the human rights and fundamental freedoms of all Iraqis, regardless of ethnicity. The Interim Government of Iraq was composed of 35 ministers, including 6 women. Fundamental freedoms were also recognized in all areas of information and culture and dozens of parties and governmental organizations had been created. His country rested on inimitable cultural foundations that guaranteed to the Iraqi people their right to self-determination and freedom of choice. He therefore hoped that the international community would help Iraq to rebuild its civil institutions within the framework of a free, democratic, pluralist and federal regime that was capable of bringing together all Iraqis.

42. **Mr. Jenie** (Indonesia), associating his delegation with the statement made by Qatar on behalf of the Group of 77 and China, recalled that in its Programme of Action, the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance had urged States to ratify the International Convention on the Elimination of All Forms of Racial Discrimination and to design national action plans to combat racism.

43. With a view to preserving its ethnic, cultural and linguistic diversity, Indonesia had become a party to the Convention in 1999, as part of the implementation of its national plan of action on human rights for 1998-2003. On 25 August 2004, Indonesia had launched its second national plan of action, which contained the concrete measures it would take during the period 2004-2009 to eliminate all forms of racial discrimination.

44. Citing amendments to the Constitution and reviews of other national legislation, he explained that his Government was working to promote tolerance and respect for diversity and was taking all necessary legislative, judicial, regulatory and administrative measures to reach that goal.

45. Concerned by the rise in racism and racial discrimination in the world, Indonesia called on the international community to combat terrorism while at the same time ensuring respect for human rights.

46. On the issue of self-determination, his delegation called attention to the plight of the Palestinian people and urged Israel to implement all relevant United Nations resolutions, in particular the resolution concerning the construction of the wall (A/RES/ES-10/15) adopted by the General Assembly in July 2004 during its tenth emergency special session.

47. World peace and prosperity could not be achieved without tolerance and respect for diversity. Invoking the Charter of the United Nations, he said that all peoples, without distinction, must be allowed to contribute to, and benefit from, human development.

48. **Mr. Tiwana** (Pakistan), speaking on agenda item 104, stressed that the right to self-determination, which was among the 14 points set out by President Wilson at the end of the First World War, was enshrined in the Charter of the United Nations, the Declaration on the Granting of Independence to Colonial Countries and Peoples (1960), and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States in accordance with the Charter of the United Nations (1970).

49. During the second half of the twentieth century, the affirmation of that principle had led to the decolonization of a majority of the States that currently made up the United Nations. Pakistan and India had been created on the basis of the right to self-determination; unfortunately, however, the inhabitants of Jammu and Kashmir had been denied that right.

50. With a view to peacefully settling the problem of Jammu and Kashmir, Security Council resolution 47 (1948) had envisaged demilitarization and the holding of a plebiscite. The United Nations Commission for India and Pakistan (UNCIP), established in 1948, had been mandated to arrange a cessation of hostilities and to hold a free and fair plebiscite in the State of Jammu and Kashmir. Two UNCIP resolutions (of August 1948 and of January 1949) had facilitated a ceasefire and the deployment of the United Nations Military Observer Group in India and Pakistan.

51. The demilitarization of the State of Jammu and Kashmir — a prerequisite for the holding of a plebiscite — had caused difficulties, and recourse to arbitration had been rejected by one of the parties. A United Nations Representative for India and Pakistan had then been appointed and his report had served as the basis for Security Council resolution 91 (1951), which observed that the Governments of India and Pakistan had accepted the provisions of the UNCIP resolutions and had reaffirmed their desire to hold a free and impartial plebiscite, set out the main points of difference between the two parties, and instructed the United Nations Representative to proceed to the sub-

continent to effect the demilitarization of the State of Jammu and Kashmir.

52. Proposals adopted in the early 1950s to implement the resolutions on Kashmir had not led to agreement on the holding of the plebiscite, and during the past 15 years, over 80,000 Kashmiris had died and massive violations of human rights had occurred.

53. Pakistan extended political, moral and diplomatic support to the struggle of the Kashmiri people for self-determination. It had always endeavoured to find a peaceful solution to the dispute. On 22 September 2004, the President of Pakistan had told the General Assembly that Pakistan and India had initiated confidence-building measures and begun a dialogue with a view to addressing all outstanding issues, including that of Kashmir, finding a just and honourable solution acceptable to all, and putting an end to violence and terrorism.

54. On 24 September 2004, the President of Pakistan and the Indian Prime Minister had agreed to explore possible options for a peaceful settlement of the issue. In that spirit, the President of Pakistan had told the national media to initiate a debate on possible solutions to the dispute. It seemed clear that demilitarization was essential.

55. The problem must be settled, as otherwise the dispute could jeopardize long-term peace and stability in South Asia and the prosperity of the region.

56. **Mr. Grigore** (Republic of Moldova), speaking on agenda item 104, recalled that the right of peoples to self-determination was a universal principle, and one of the foundations of the United Nations. It was through the exercise of that right that most of the Member States had come into existence, and the fulfilment of that right was the foundation for the enjoyment of all other fundamental rights.

57. At the same time, according to General Assembly resolution 2625 (XXV) and the Vienna Declaration (1993), self-determination should not impair the independence, territorial integrity or political unity of sovereign and independent States.

58. Over recent decades, many regions of the world had experienced intra-State conflicts. Separatist and extremist groups had sometimes invoked the right to self-determination to serve their political purposes, which had nothing to do with any specific ethnic or religious identity, deliberately failing to recognize that the right to self-determination meant that people could freely determine their political, economic and social systems within their national borders. Such separatist movements had undermined development and threatened the foundation of democratic States. The concept of self-determination could be taken out of context and used to encourage terrorism and violence. Secessionists and extremists, receiving support from abroad, were infringing on the territorial integrity and the sovereignty of certain States — among them the Republic of Moldova, whose eastern districts were controlled by a mafia-like clan. The separatist regime was attempting to bring about the organization of a referendum on independence, although the people of Moldova had already decided on their future 13 years earlier. Along with the Organization for Security and Cooperation in Europe (OSCE), which had already voiced its concerns, the international community must strongly condemn such practices.

59. Partial views and misconceptions on the scope of self-determination could only encourage separatism and other destructive movements, although self-determination was a fundamental right for those who were still subject to foreign domination.

60. Self-determination could not be achieved through the abuse of human rights, less still by persecution or discriminatory policies. Tolerance and a spirit of compromise, rather than secession and separatism, allowed for the expression of ethnic, religious and political identities within democratic States.

61. The Republic of Moldova, as a multi-ethnic society, was fully committed to the observance of human rights, and to their enactment in law, and was monitoring respect for the rights and identity of minorities, with a view to ensuring stability, democracy and prosperity in that country.

62. **Ms. Kusorgbor** (Ghana), speaking on agenda item 103, noted that racism and racial discrimination were obstacles to peace and harmony throughout the world, and that intolerance and lack of respect among people of different races had led to serious human rights violations.

63. Three years after the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, it was evident that, rather than an intensification of the fight against racism and racial discrimination, the world was witnessing a disturbing

increase in such manifestations and in discrimination against non-nationals, refugees and immigrants.

64. In his interim report (A/59/329), the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance suggested that, owing to the ideological context, the issue of discrimination was in the process of transformation. That was regrettable. All forms of discrimination should be dealt with as such and set apart from ideologies or political theories.

65. Combating discrimination required determined efforts and close collaboration among all actors. To counteract the dissemination of the negative ideas, concepts, images and perceptions that underlay acts of racism and discrimination and to make all individuals aware that all human beings were born equal in rights, stress should be laid on education and public awareness. They were the key, moreover, to combating the misuse of the Internet, a useful tool, but one that was increasingly becoming a medium for the dissemination of racist propaganda.

66. The resurgence of xenophobia had eroded the effectiveness of legal instruments. Her delegation endorsed the recommendation of the Special Rapporteur on the need to address the deep cultural roots of racism. The High Commissioner for Human Rights had prioritized the struggle against racism, racial discrimination and xenophobia.

67. In order to ensure effective implementation of the goals of the Durban Declaration and Programme of Action, there was a need to strengthen international cooperation and to enhance public awareness about racial and ethnic diversity and values, placing the preservation of identity, culture and fundamental rights at the heart of the fight to overcome the unfortunate phenomenon of racism.

68. **Mr. Zeidan** (Lebanon) stressed the importance and universality of equal rights and self-determination of peoples, the illegality of foreign occupation and the establishment of settlements on foreign territory, and the right of refugees to return to their homes.

69. In the Special Rapporteur's study on the question of political platforms which promoted or incited racial discrimination (A/59/330), Lebanon's civil war was cited as an illustration of the "tragic consequences of ethnic and communal polarization". His delegation wished to point out that the amended constitution adopted in 1990, after 15 years of war, recognized the equality of all citizens, the need for a balanced development of the regions and the right of citizens to reside in any part of the territory. The constitution prohibited any geographic distribution of the population on the basis of affiliation. Moreover, the country's Penal Code provided for the punishment of acts of incitement to religious or racial hatred and prohibited associations founded for that purpose. Lebanon was opposed to any policy, discrimination, doctrine or theory based on the notion of racial or ethnic superiority. Since 1971 it had been a party to the International Convention on the Elimination of All Forms of Racial Discrimination.

70. As the Special Rapporteur highlighted in his report, terrorism had fuelled conflicts among groups, communities, religions and cultures that had peacefully coexisted before. Hence terrorism must be combated in all its forms, including State terrorism. The situation of the Palestinian people, who were victims of discrimination, was unacceptable. The report courageously noted that the "security wall" constituted "a jarring symbol of seclusion" and had contributed to the rise of racism in the world in the form of Islamophobia and anti-Semitism. With reference to the report of the Secretary-General on the right of peoples to self-determination (A/59/376), which reported the advisory opinion of the International Court of Justice on the construction of the wall by Israel, his delegation called upon the General Assembly and the international community to give special attention to the violation of the right to self-determination resulting from foreign occupation and the use of mercenaries. Palestinians had the right to return to their homeland in an independent Palestinian State. Lebanon rejected all attempts to settle Palestinian refugees on its territory.

71. As for the struggle against anti-Semitism, it was inherently tied to struggle against all forms of oppression. In that regard, one should not fall into the error, pointed out by Noam Chomsky, of confusing criticism of State policy with anti-Semitism.

72. **Mr. Tekle** (Eritrea), speaking on agenda item 104, recalled that the principle of self-determination had inspired the struggle against colonialism, foreign occupation and racism, including apartheid. However, the process of decolonization, which had raised the number of States Members of the United Nations from 52 to 191, was not yet complete, and those peoples who continued to suffer under colonial subjugation or

foreign occupation and racism must be helped to be free. Eritrea was committed to their cause, since its own people had had to struggle for 30 years to exercise their right to self-determination.

73. The right to self-determination also meant that States were masters of their national wealth. Respect for the latter right was a cornerstone of peace and the development of good-neighbourly relations, and coercive diplomacy of any kind should be condemned. Any attempt by a State or group of States, acting through United Nations resolutions or any other means, to impose coercive measures restricting the control of another State over its resources or requiring another State to enter into an agreement granting concessions was a violation of the provisions of the Charter of the United Nations and the relevant human rights instruments. The preservation of international peace and security could only be achieved through respect for international law, in particular the principle of *pacta sunt servanda*, for the rule of law and for the decisions of arbitration commissions.

74. Intra-State conflicts had given a new significance to the right to self-determination. The principle needed to be adopted to resolve the problems emanating from ethnic conflicts while protecting the sovereignty and territorial integrity of States and opposing the electoral gerrymandering and balkanization that one ethnic group might impose. Reorganizing a State on the basis of ethnic federalism and enshrining in the constitution the right of any ethnic group to secede from the federation would end by breaking up the State and bleeding it white.

75. The new generation in Eritrea was ready to defend every aspect of their right to self-determination, which was not only inviolable but also non-abridgeable and could not be compromised for the sake of normalization of relations. Some parties were trying to impose an unjust and unequal treaty through intimidation, not realizing that the effort could only promote insecurity and instability and result in regional chaos. Only Eritreans could exercise their right to self-determination and determine their future, and they would fight rather than be defrauded once again.

76. **Mr. Majewski** (Observer for the International Federation of Red Cross and Red Crescent Societies), speaking on agenda item 103, said that the constructive work done by the International Red Cross and Red Crescent Movement at its statutory meetings at the end of 2003 was embodied in a resolution adopted by the Movement's Council of Delegates, which recognized that discrimination and intolerance actively jeopardized the efforts of civil society and Governments to build prosperous and sustainable communities. It was important that the General Assembly should recognize that racism, ethnocentrism, xenophobia and intolerance were major threats to sustainable development as well as to international peace and security.

77. The Federation had made a pledge on non-discrimination and respect for diversity at the twenty-eighth International Conference of the Red Cross and Red Crescent in December 2003. The pledge could be found on the Internet at >http://www.ifrc.org/what/values/docs/2003-IC-Fed-Pledge-eng.pdf<. In order to fulfil that pledge, the Federation had undertaken initiatives in a number of countries. In Bosnia and Herzegovina, for example, the "Friendship without Borders" programme run by the local Red Cress society in collaboration with the Norwegian Red Cross aimed to rebuild relationships among young people from all the former Yugoslav republics. The Icelandic Red Cross, with the support of the Ministry of Social Affairs, the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration, provided support to refugee families. In Sierra Leone, the Community Animation and Peace Support Project was being carried out by the Sierra Leone Red Cross.

78. Many of the national Red Cross and Red Crescent societies in different parts of the world had identified discrimination based on xenophobia or racism as a priority challenge, with a direct linkage to paragraph 115 of the Durban Programme of Action concerning the key role that politicians and political parties could play in combating racism.

79. Recognizing that success depended on cooperation, the Federation was working closely with the International Committee of the Red Cross and convening a group of experts to work towards the implementation of the commitments contained in the resolution adopted by the Movement's Council of Delegates. The group would be meeting in Geneva in December 2004, and it was to be hoped that it would find inspiration in the debates taking place in the current session of the General Assembly and in the work of the treaty bodies. The Federation believed that the struggle against discrimination did not require new treaties or new laws. In nearly all countries the legal basis for action was in place. What was missing was

the commitment and the concrete measures called for in the Durban Declaration. That was why the members of the Federation were reaching out more and more to their Governments. The Federation hoped that the resolutions that the General Assembly would adopt at the current session would take that cause further and encourage wider consultation with national organizations.

80. In closing, the Federation wished to commend the energetic work done by some regional organizations, such as the Office for Democratic Institutions and Human Rights of OSCE, whose work throughout Europe and sometimes beyond could serve as an example to other regions of how to organize their efforts more effectively.

81. **Mr. Nebie** (Burkina Faso), speaking on agenda item 103, noted in document A/59/275 that 169 States had signed or ratified the International Convention on the Elimination of All Forms of Racial Discrimination, and encouraged the Secretary-General to continue his efforts to ensure its universality and extend its scope. Burkina Faso commended the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance for his objectivity. It noted with great concern, from reading his reports (A/59/329 and A/59/330) that the statements of certain politicians revealed a resurgence of racism and xenophobia. Sports and new information and communications technologies were exploited for racist and xenophobic purposes and religion and culture themselves had become the targets of deliberate acts of discrimination. His delegation fully endorsed the Special Rapporteur's conclusions and recommendations, which proposed appropriate solutions, and invited all delegations to support the relevant draft resolution. It also welcomed the priority which the High Commissioner for Human Rights had given to the fight against racism in her report and assured her of its full support.

82. Burkina Faso, which had made integration a cardinal principle of its foreign and domestic policy, had instituted annual integration days during which all the foreign communities came together to participate in sports, cultural and recreational activities. True to its ancestral customs which considered the stranger as sacred, Burkina Faso welcomed foreigners to its territory and granted them the same rights as nationals, along with the possibility of obtaining its nationality and working in the civil service.

83. Some 60 ethnic groups with different cultures and religions lived together in harmony in Burkina Faso, a harmony that was strengthened by the ancestral custom of "*parenté à plaisanterie*", a factor of unity and understanding that governed social relations among communities. In order to reinforce and perpetuate the sense of belonging to the same community, since 2002 the Government of Burkina Faso had observed 16 November as the International Day of Tolerance and awarded the Gold Star of Tolerance prize on that day.

Statements in exercise of the right of reply

84. **Mr. Israeli** (Israel), in reply to the statement made by the Observer for Palestine, said that the Palestinian delegation, rather than giving lessons on racism, would better serve its people by eliminating the constant incitement to hatred in the schools, publications and the media. Indeed, it would be much better if the Palestinian leadership, rather than supporting terror, which was the enemy of both peoples, met its obligation to eliminate it. The security barrier built by Israel was a temporary defensive measure to contain terrorism, the main obstacle to peace in the region. Israel was a tolerant State where Jews and Arabs, as well as individuals belonging to other races, religions or ethnic groups, lived freely in a liberal and democratic society. Israel was making major efforts to make peace with its Palestinian neighbours by fostering an atmosphere of mutual recognition, and it hoped that they would become partners in peace.

85. **Mr. Kadiri** (Morocco), in reply to the statement made by Algeria under agenda item 104, said that once again, Algeria wished to stir up controversy within the Committee and give delegations incorrect information regarding the Moroccan Sahara. Morocco rejected its allegations and generalizations concerning that region, which had been decolonized during the 1970s and returned to Morocco, like all the other parts of Moroccan territory under Spanish colonization. He invited Algeria to settle the artificial dispute it had entered into with Morocco, as recommended in resolution 1570, which the Security Council had adopted on 27 October 2004, in which it requested the parties and neighbouring States to end the current impasse and to achieve progress towards a political solution.

86. **Ms. Rasheed** (Observer for Palestine) said that the statements of the representative of Israel presenting

his country as a tolerant democracy were perplexing to her, as Israeli basic law 1A affirmed that the State of Israel was a Jewish state. Israel's practice of favouring the interests of Jewish citizens, especially in a country where 20 per cent of the population was not Jewish, opened up the possibility of legal and racial discrimination. It was a clear and proven fact that the Jews enjoyed special rights and privileges that the indigenous population, which had been there for many years, did not. She wondered how Israel could call itself a democratic country guaranteeing equal rights for all when restrictions applied to non-Jews, in particular concerning land ownership. She referred to a law recently adopted by the Israeli Parliament and denounced by many human rights organizations as racist, undemocratic and discriminatory, which prevented Palestinians from the occupied territories from settling in Israel and denied them the possibility of obtaining Israeli citizenship. That law had affected thousands of families living in Israel, which had either been forced to separate or emigrate. The Israeli Government justified that law on the grounds of security and the need to reduce the threat of attacks on the country. High Israeli officials had said that the Palestinian citizens of Israel were a demographic threat and a threat to the Jewish character of the State of Israel. Israel had established two different regimes, applied to two communities living in two different zones governed by two different types of laws. Moreover, one of those communities lived on land that it had confiscated from the other. As for incitement to hatred, it appeared to her that it was exactly what Israel was doing by making insulting comments about Palestinians. As an example, she quoted the statement of the Minister of Transport who, in speaking of Palestinian prisoners, had said that he could transport them but that he would prefer to drown them in the Dead Sea. In her view, it was important to place the entire situation in the context of the occupation: the current difficult situation was the result of practices which Israel, the occupying Power, used against the Palestinian population.

87. **Mr. Osmane** (Algeria), replying to the representative of Morocco, reaffirmed, first of all, that the question of Western Sahara was a problem of decolonization which was the responsibility of the United Nations and which should be resolved through the application of the resolutions which United Nations bodies had adopted on the subject and the exercise by the people of Western Sahara of their inalienable right to self-determination. Second, Algeria was not a party to the conflict, as the various resolutions adopted on the question had clearly identified the parties involved as Morocco and the Polisario Front. Third, as support for the right of peoples to self-determination was a cardinal principle of its foreign policy, Algeria, which had supported all peoples fighting for their freedom and dignity, would continue to uphold the principle of the exercise by the Sahrawi people of their right to self-determination.

88. **Mr. Kadiri** (Morocco) said that the very fact that Morocco and Algeria were involved in a debate proved that the two countries were parties to the regional dispute. As he had already recalled, Moroccan Sahara had been decolonized during the 1970s and definitively reintegrated into the mother country like the other parts of Moroccan territory under Spanish colonization. Furthermore, he stressed that resolution 1570 (2004) just adopted by the Security Council recalled previous Council resolutions (including resolution 1359 (2001) concerning the Framework Agreement confirming Moroccan sovereignty over the Sahara), and called on the parties to go beyond all those resolutions and to achieve progress towards a new mutually acceptable political solution.

89. **Mr. Osmane** (Algeria) said that he had nothing to add to his previous statement.

The meeting rose at noon.